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Rights of the Child

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MEETING OF THE STATES PARTIES TO THE CONVENTION
ON THE RIGHTS OF THE CHILD

Fifth meeting

SUMMARY RECORD OF THE 9th MEETING

Held at Headquarters, New York,
on Tuesday, 21 February 1995, at 10 a.m.

Temporary Chairperson: Mr. CORELL
(Representative of the
Secretary-General)

Chairperson: Mr. JUSYS (Lithuania)

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The meeting was called to order at 10.10 a.m.

OPENING OF THE MEETING BY THE REPRESENTATIVE OF THE SECRETARY-GENERAL OF THE UNITED NATIONS

1. The TEMPORARY CHAIRPERSON, speaking on behalf of the Secretary-General, said that since the Fourth Meeting of the States Parties to the Convention on the Rights of the Child, one new State had ratified the Convention, bringing the total number of States parties to 168 - very close to the goal of universal ratification.

2. During its eighth session, the Committee on the Rights of the Child, in addition to considering State reports, had devoted its thematic discussion to the topic of the rights of the girl child. Based on the unanimous recommendation of the States parties, the General Assembly had decided to increase the number of annual sessions of the Committee as well as the number of sessions of its working group from two to three as from 1995.

3. The current meeting had been convened primarily for the purpose of electing five members to the Committee on the Rights of the Child to replace those whose terms of office were due to expire on 28 February 1995. The names of the persons nominated, as well as the States parties that had nominated them, were listed in document CRC/SP/14 and Add.1 and 2. An updated list of the States parties to the Convention and the texts of reservations, declarations and objections relating to the Convention appeared in document CRC/C/2/Rev.3.

4. Mr. SACIRBEY (Bosnia and Herzegovina) proposed that the meeting should adopt the following decision:

> "The States parties to the Convention on the Rights of the Child decide that the Federal Republic of Yugoslavia (Serbia and Montenegro) shall not participate in the work of the Fifth Meeting of the States Parties to the Convention on the Rights of the Child."

5. Mr. DJORDJEVIC (Federal Republic of Yugoslavia) said that the proposal by the preceding speaker was totally inconsistent with the spirit and letter of the Convention; it was legally unfounded, and politically motivated. If adopted, it would amount to discrimination against a State party and would set a dangerous precedent; it would create obstacles to the implementation of the Convention.

6. Under rule 74 of the rules of procedure of the General Assembly his delegation moved that no action should be taken on the proposal.

7. Mr. ZAHID (Morocco) said that Morocco, as current Chairman of the Organization of the Islamic Conference, fully supported the proposal by the representative of Bosnia and Herzegovina. The Meeting should take a decision on that proposal before proceeding to the second proposal.

8. The CHAIRPERSON said that the motion to take no action had to be dealt with first.

9. Mr. BRAHA (Albania) said that his delegation supported the proposal by the representative of Bosnia and Herzegovina. The Federal Republic of Yugoslavia (Serbia and Montenegro) was not a party to the Convention since it had not acceded to it as a successor State to the former Socialist Federal Republic of Yugoslavia.

10. Mr. POINSOT (France), speaking on behalf of the European Union and its member States, said that in various circumstances and in various bodies of the United Nations system the European Union had explained its position on the participation of the Federal Republic of Yugoslavia (Serbia and Montenegro). Its position remained unchanged.

11. At the request of the delegation of Yugoslavia, a vote was taken by roll-call on the motion to take no action on the proposal by the representative of Bosnia and Herzegovina.

In favour: Federal Republic of Yugoslavia (Serbia and Montenegro)

Against: Afghanistan, Albania, Algeria, Australia, Austria, Azerbaijan, Bangladesh, Belgium, Bosnia and Herzegovina, Bulgaria, Burkina Faso, Burundi, Cambodia, Canada, Cape Verde, Central African Republic, Chile, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Egypt, Estonia, Finland, France, Germany, Greece, Guatemala, Guinea, Hungary, Iceland, Indonesia, Iran (Islamic Republic of), Israel, Italy, Japan, Jordan, Latvia, Lebanon, Liechtenstein, Lithuania, Mali, Malta, Mauritania, Mauritius, Micronesia (Federated States of), Monaco, Morocco, Mozambique, New Zealand, Nicaragua, Niger, Norway, Pakistan, Panama, Paraguay, Philippines, Poland, Portugal, San Marino, Senegal, Seychelles, Slovenia, Spain, Sudan, Suriname, Sweden, the former Yugoslav Republic of Macedonia, Trinidad and Tobago, Tunisia, Ukraine, United Kingdom of Great Britain and Northern Ireland, Yemen

Abstaining: Argentina, Bolivia, Brazil, Cote d'Ivoire, Ecuador, El Salvador, Eritrea, Ethiopia, Fiji, Gabon, Gambia, Georgia, Ghana, Honduras, India, Lesotho, Malawi, Marshall Islands, Monaco, Nepal, Nigeria, Peru, Republic of Korea, Romania, Thailand, Uganda, Uruguay, Venezuela, Zimbabwe

12. The motion was rejected by 75 votes to 1, with 29 abstentions.

13. Mr. DJORDJEVIC (Yugoslavia) said that the attempts by certain States parties to the Convention to challenge his delegation's participation in the Meeting were unfounded and inconsistent with the letter and spirit of the Convention and with the rules of procedure of the Meetings.

14. The Socialist Federal Republic of Yugoslavia had become a State party to the Convention on 3 January 1991. In the Declaration of the Assembly of the Federal Republic of Yugoslavia dated 27 April 1992, it had been clearly stated that the Federal Republic of Yugoslavia would continue the State, international, legal and political personality of the former Socialist Federal Republic of

Yugoslavia and would honour all its international obligations including those arising from international human rights instruments. That position was unequivocally supported by the rules of international customary law codified in articles 34 and 35 of the Vienna Convention on Succession of States in respect of Treaties. The status of the Federal Republic of Yugoslavia as a party to treaties was not in any way affected by General Assembly resolution 47/1, which pertained solely to non-participation in the General Assembly. That was borne out in the opinion of the United Nations Legal Counsel contained in document A/47/485 and in the opinion of the United Nations Office of Legal Affairs of 16 November 1993.

15. His delegation had been officially invited to the current Meeting and had duly submitted full powers. The current Meeting was not an appropriate forum for the consideration of issues arising from the succession of the former Socialist Federal Republic of Yugoslavia or its status in the United Nations. Those issues were under consideration within the International Conference on the Former Yugoslavia and in the United Nations.

16. The Federal Republic of Yugoslavia had clearly expressed its resolve to honour all its obligations arising from the Convention. His Government had submitted its report to the Committee on the Rights of the Child in November 1993 on an exceptional basis. The Federal Republic of Yugoslavia, as a State party to the Convention, was required to participate in the Meeting of States parties to the Convention.

17. In view of those considerations, his delegation was convinced that the action to suspend its participation in the meeting was entirely politically motivated and could set a dangerous precedent for the future with respect to the status of the States parties to the Convention and create serious obstacles in its implementation. The denial of his Government's legitimate right to participate in the Meeting would at the same time imply the suspension of its obligations arising from the Convention. That would result in the suspension of his Government's cooperation with the Committee; moreover, the Committee would not be in a position to request his Government to undertake any activity under the Convention.

18. The Convention belonged to a special category of treaties whose beneficiaries were not States but individual human beings. It was for that reason the International Court of Justice had ruled that international human rights instruments were valid erga omnes and should be accorded a privileged status. His delegation strongly opposed any kind of pressure or imposition of rule of the majority by any group of States. To accept such an approach would be disastrous for the cooperation of States parties and the future implementation of the Convention. It would lead to chaos in international relations and would amount to blatant disregard of the basic principles of international law and the Charter of the United Nations concerning the universality and sovereign equality of States.

19. Mr. MATESIC (Croatia) said that his delegation wished to voice its objection to the participation of a delegation from the Federal Republic of Yugoslavia (Serbia and Montenegro) at the Meeting. The Federal Republic of Yugoslavia, which consisted of the former Yugoslav Republics of Serbia and

Montenegro, claimed to be a State party to the Convention, in other words that it represented the predecessor State rather than one of the successor States of the former Yugoslavia. It was trying to create a precedent by which it would later seek to prove that it was the sole legitimate successor to the former Socialist Federal Republic of Yugoslavia. Those claims were contrary to the position taken by the international community. The Arbitration Commission of the International Conference on the Former Yugoslavia had stated that the Federal Republic of Yugoslavia was a new State which could not be the sole successor to the Socialist Federal Republic of Yugoslavia. The Security Council - in resolution 777 (1992) - and the General Assembly - in resolution 47/1 - had taken the position that the Federal Republic of Yugoslavia (Serbia and Montenegro) could not automatically continue the membership of the former Socialist Federal Republic of Yugoslavia in the United Nations. The underlying basis for those decisions was that the Socialist Federal Republic of Yugoslavia had ceased to exist.

20. Since virtually all the States parties to the Convention were States Members of the United Nations, they would naturally adhere to the position that had been expressed by the Security Council and the General Assembly concerning the dissolution of the former Yugoslavia. While it was understandable that the States parties to the Convention wanted the Federal Republic of Yugoslavia to be bound by its terms, a State which had grossly violated every international human rights treaty should not be allowed to take advantage of the desire for universal ratification. It should act as other successor States of the former Yugoslavia had done and notify the Secretary-General of its succession to the Convention. In the meantime, it should not be allowed to participate in the Meetings of States parties to the Convention.

21. His delegation was puzzled by the information provided in certain documents issued by the Secretariat to the effect that a certain "Yugoslavia" was a State party to the Convention and that the date of entry into force of the Convention for that State was 2 February 1991. The self-proclaimed "Federal Republic of Yugoslavia" had not come into existence until 27 April 1992 and had not notified the Secretary-General of its succession to the Convention. That information should be corrected.

22. A vote was taken by roll-call on the proposal by the representative of Bosnia and Herzegovina.

In favour: Afghanistan, Albania, Algeria, Australia, Austria, Azerbaijan, Bangladesh, Belgium, Bosnia and Herzegovina, Bulgaria, Burkina Faso, Cambodia, Canada, Chile, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Egypt, El Salvador, Estonia, Finland, France, Germany, Greece, Guatemala, Guinea, Hungary, Iceland, Indonesia, Iran (Islamic Republic of), Israel, Italy, Japan, Jordan, Latvia, Lebanon, Lithuania, Luxembourg, Mali, Malta, Marshall Islands, Mauritania, Mauritius, Micronesia (Federated States of), Moldova, Monaco, Morocco, Mozambique, New Zealand, Nicaragua, Niger, Norway, Pakistan, Paraguay, Philippines, Poland, Portugal, Republic of Korea, Romania, San Marino, Senegal, Slovenia, Spain, Sudan, Suriname, Sweden, the former Yugoslav Republic of Macedonia,

Trinidad and Tobago, Tunisia, Ukraine, United Kingdom of Great Britain and Northern Ireland, Yemen.

Against: Federal Republic of Yugoslavia (Serbia and Montenegro).

Abstaining: Angola, Argentina, Bolivia, Brazil, Burundi, Central African Republic, Côte d'Ivoire, Ecuador, Eritrea, Ethiopia, Fiji, Gabon, Gambia, Georgia, Ghana, Honduras, India, Lesotho, Madagascar, Malawi, Nepal, Nigeria, Peru, Sri Lanka, Thailand, Uganda, Uruguay, Venezuela, Zimbabwe.

23. The motion was rejected by 75 votes to 1, with 29 abstentions.

24. Mr. TOMIČ (Slovenia), speaking in explanation of vote and supported by Mr. FRANCIS (Australia), said that the Socialist Federal Republic of Yugoslavia had been dissolved and the Federal Republic of Yugoslavia (Serbia and Montenegro) had to ratify the Convention on the Rights of the Child separately. The continuity of a legal regime could not be used to create the illusion of a continued legal personality.

ELECTION OF THE CHAIRPERSON

25. Mr. STRAUSS (Canada) nominated Mr. Jusys (Lithuania) for the office of Chairperson.

26. Mr. Jusys (Lithuania) was elected Chairperson by acclamation.

27. Mr. Jusys (Lithuania) took the Chair.

ADOPTION OF THE AGENDA

28. The agenda was adopted.

CREDENTIALS OF THE REPRESENTATIVES

29. The CHAIRPERSON drew attention to rules 2 and 3 of the rules of procedure of the Meetings (CRC/SP/5) and said that the Secretary-General had yet to receive proper credentials from a number of States parties represented at the Meeting. He suggested that, in accordance with rule 3, the representatives of those States parties should be provisionally authorized to participate in the Meeting, and at the same time urged them to see to have their credentials submitted to the Secretary-General as soon as possible.

30. It was so decided.

ELECTION OF OTHER OFFICERS OF THE MEETING

31. The CHAIRPERSON said that, under rule 4 of the rules of procedure, the Meeting had to elect one to four Vice-Chairpersons from among the representatives of the States parties. Mr. Balzan (Malta) and Mrs. Klein-Loemban Tobing (Suriname) had been nominated by their respective regional groups for the office of Vice-Chairperson.

32. Mr. Balzan (Malta) and Mrs. Klein-Loemban Tobing (Suriname) were elected Vice-Chairpersons by acclamation.

ELECTION OF FIVE MEMBERS OF THE COMMITTEE ON THE RIGHTS OF THE CHILD IN ACCORDANCE WITH ARTICLE 43 OF THE CONVENTION ON THE RIGHTS OF THE CHILD (CRC/SP/14 and Add.1-2)

33. The CHAIRPERSON said that, in accordance with article 43 of the Convention on the Rights of the Child, five members were to be elected for a term of four years by secret ballot from a list of persons nominated by States parties. The names of the candidates nominated by the States parties were contained in document CRC/SP/14 and Add.1 and 2. Saint Lucia and the Central African Republic had withdrawn their candidates.

34. At the invitation of the Chairperson, Mr. Stomatopoulou (Greece) and Mr. Amor (Tunisia) acted as tellers.

A vote was taken by secret ballot.

Number of ballot papers: 151

Number of valid ballots: 151

Number of members voting: 151

Required majority: 76

Number of votes obtained:

Ms. Judith Karp (Israel) 70

Mr. Thomas Hammarberg (Sweden) 70

Mr. Yuri M. Kolosov (Russian Federation) 67

Mrs. Akila Belembaogo (Burkina Faso) 63

Mr. Vitit Muntarbhorn (Thailand) 53

Ms. Sandra Prunella Mason (Barbados) 37

Mrs. Nana Araba Apt (Ghana) 37

Mgr. Luis A. Bambaren Gastelumendi (Peru) 33

Mr. Victor Manuel Guisa Cruz (Mexico) 29

Mrs. Blanca Lizzeth Rivera de Paz (Honduras) 25

Mr. Rodriguo Crespo Toral (Ecuador) 23

Mrs. Victoria Nwabuaku Okobi (Nigeria) 23

Mrs. Suzanne Aho (Togo) 20

Mr. Mainassara Maidagi (Niger) 19

Mrs. Fatoumata Diaraye Diaby (Guinea) 18

Mr. Omar Mohamed Zentani (Libyan Arab Jamahiriya) 18

Mrs. Amna Mohamed Abdel-Karim Bedri (Sudan) 15

Mrs. Natalia Petrova (Ukraine) 15

Mr. Ali Abdul Fattah (Syrian Arab Republic) 14

Mr. Marcelo Cantón Pombo (Uruguay) 13

Mr. Jesmond Schembri (Malta) 11

Mrs. Félicité Christine J. A. Talon (Benin) 10

Mrs. Ida E. P. Lisk (Sierra Leone) 9

Mr. Jean Christophe Tchouatieu Tchadjou (Cameroon) 7

Mr. Moussa Couguere (Chad) 1

35. The CHAIRPERSON said that since no candidate had obtained the required majority, the 10 candidates who had obtained the highest number of votes would be put to a second vote by secret ballot at a later meeting.

The meeting rose at 1.30 p.m.